



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving the Addendum to the Improvement Agreement for the Public Improvements of Tienda Place, Unit No. 1, Tract No. 3141; Authorizing the City Manager to Execute an Amendment to the Agreement for Maintenance of Landscape Area Within State Highway 12 Right of Way with Caltrans, and a Maintenance Agreement with the Developer for Landscape Improvements in the Kettleman Lane Right of Way; and Appropriating Funds for Applicable Reimbursements

MEETING DATE: August 7, 2002

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution taking the following action with regard to the Tienda Place, Unit No. 1 development:

1. Approve the Addendum to the Improvement Agreement for the Public Improvements of Tienda Place, Tract No. 3141, and direct the City Manager and City Clerk to execute the Addendum to the Improvement Agreement on behalf of the City.
2. Authorize the City Manager to execute an amendment to the Agreement for Maintenance of Landscape Area within State Highway Right of Way, State Route 12 in the City of Lodi with Caltrans, and a Maintenance Agreement with the developer covering developer's responsibilities for landscape improvements in the Kettleman Lane right of way.
3. Appropriate funds for applicable reimbursements.

BACKGROUND INFORMATION: The final map and improvement agreement for the Tienda Place, Unit No. 1 subdivision were approved by Council on October 17, 2001. The subdivision is located north of Kettleman Lane and west of and adjacent to the Woodbridge Irrigation District (WID) canal, as shown on Exhibit A.

Subdivision improvements include the installation of frontage improvements, including landscaping and irrigation along Kettleman Lane, and the extension of Tienda Drive to Lakeshore Drive. The scope of work for those improvements has changed since the Improvement Agreement was executed and an Addendum to the Improvement Agreement has been prepared to address the additional engineering plan check and inspection fees, improvement security, reimbursements and additional agreements necessitated by those changes.

Kettleman Lane Street Improvements

The Tienda Place development is being constructed in two phases, Unit No. 1 and Unit No. 2. Both units include street frontage improvements along Kettleman Lane. Since Kettleman Lane is a State highway, the installation of street improvements requires a Caltrans encroachment permit. In order to expedite the Caltrans encroachment permit process, the developer has elected to include the Kettleman Lane frontage

APPROVED: _____

Janet Keeton
Janet Keeton -- City Manager

CIAADDET

07/29/02

Adopt Resolution Approving the Addendum to the Improvement Agreement for the Public Improvements of Tienda Place, Unit No. 1, Tract No. 3141; Authorizing the City Manager to Execute an Amendment to the Agreement for Maintenance of Landscape Area Within State Highway 12 Right of Way with Caltrans, and a Maintenance Agreement with the Developer for Landscape Improvements in the Kettleman Lane Right of Way; and Appropriating Funds for Applicable Reimbursements

August 7, 2002

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improvements along the Tienda Place, Unit No. 2 frontage as part of the Unit No. 1 project. The developer is entitled to reimbursement for excess width street improvements on Kettleman Lane in conformance with LMC §16.40, Reimbursements for Construction. Reimbursement to the developer for excess width street pavement improvements along the Kettleman Lane frontage of Unit No. 1 was previously approved by Council on October 17, 2001. However, no funds were appropriated at that time because the actual costs were not known. Since the scope of work on Kettleman Lane has changed, the developer is now entitled to reimbursement for excess width street frontage improvements along the Unit No. 2 frontage as well. Staff recommends that the Council approve reimbursement to the developer for all excess width street frontage improvements on Kettleman Lane (\$33,541.20) and appropriate the required funds.

Kettleman Lane Landscape and Irrigation Improvements

Private landscaping and irrigation improvements are to be installed on Lot "B", a common area adjacent to the Kettleman Lane frontage of the development (Exhibit B). The landscape improvements on Lot "B" are to be maintained by a homeowner's association to be established for the subdivision. Since the existing WID canal crossing at the east project boundary of Unit No. 2 is not being widened as a part of the Tienda Place development, the curb, gutter and sidewalk improvements along the frontage of Unit No. 2 transition from the ultimate right of way to the existing canal crossing improvements (Exhibit B), creating an unimproved area in the Kettleman Lane right-of-way between Lot "B" and the back of sidewalk. In order to prevent the area from becoming a nuisance with respect to weeds, dust, erosion, etc., the terms of the Addendum to the Improvement Agreement require the developer to incorporate the installation and maintenance of landscape and irrigation improvements for this area into the improvements for Lot "B".

The installation of landscape and irrigation improvements in the unimproved area of Kettleman Lane requires a Caltrans encroachment permit and maintenance agreement. Caltrans will not issue encroachment permits or enter into agreements with private parties for this type of work. Since the City has an existing maintenance agreement with Caltrans, Agreement for Maintenance of Landscape Area Within State Highway Right of Way, State Route 12 in the City of Lodi (Exhibit C), approved by Council in December 2001 in conjunction with the Kettleman Lane median project, staff requests that Council approve the following actions:

1. A Caltrans encroachment permit for landscape and irrigation improvements in the Kettleman Lane right-of-way being installed with the Tienda Place project shall be obtained by the City.
2. Authorize the City Manager to execute an amendment to the above-mentioned Caltrans maintenance agreement to include maintenance of those improvements.
3. Authorize the City Manager to execute a maintenance agreement with the developer covering developer's maintenance responsibilities for the landscape and irrigation improvements in the Kettleman Lane right of way.

Tienda Drive Street Improvements

The tentative map conditions set forth in Resolution P.C. 99-23, adopted by the Planning Commission on June 23, 1999, state that the developer shall install street improvements (street paving only) and extend public utilities in the Tienda Drive alignment through the adjacent properties to the west (APN 031-040-09

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August 7, 2002

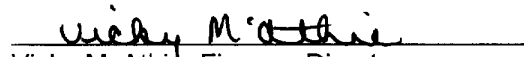
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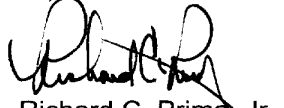
and APN 031-040-16) as shown on Exhibit A. The resolution further states that the developer shall pay one-half of the street improvement costs. The resolution is silent as to payment for the remaining one-half of the street improvements, but the minutes for the Planning Commission meeting indicate that City Council approval would be sought for reimbursement to the developer by the City for those costs. Provisions for reimbursement for this work were inadvertently omitted from the original Improvement Agreement and Council approval for the reimbursement is being requested at this time.

During the past few months, the developer has acquired an interest in the most westerly parcel (APN 031-040-16) along the Tienda Drive alignment and has elected to install full street frontage improvements, including curb, gutter and sidewalk, along that parcel as part of the Tienda Place development. Due to that circumstance, staff feels that no portion of the improvements along that parcel frontage should be subject to reimbursement by the City, and the developer concurs. The installation of those improvements, however, leaves only one parcel (APN 031-040-09) along the entire Tienda Drive alignment without curb-to-curb street improvements. Staff feels that, in the interest of public safety and to provide for orderly development, curb and gutter improvements need to be installed along with the street paving on the balance of the Tienda Drive alignment through parcel APN 031-040-09. Staff, therefore, recommends that the Council approve reimbursement to the developer by the City for the curb and gutter improvements and one-half the street pavement improvements (\$21,578.37) through that parcel, and appropriate the required funds. Staff will return to Council at a later date to establish a benefit area to recover the cost of those improvements when the parcel develops.

FUNDING: Impact Mitigation Fees - Streets (327088, MTSI001) \$56,000.00

Funding Available:


Vicky McAthie, Finance Director


Richard C. Prima, Jr.
Public Works Director

Prepared by Sharon A. Welch, Senior Civil Engineer

RCP/SAW/lm

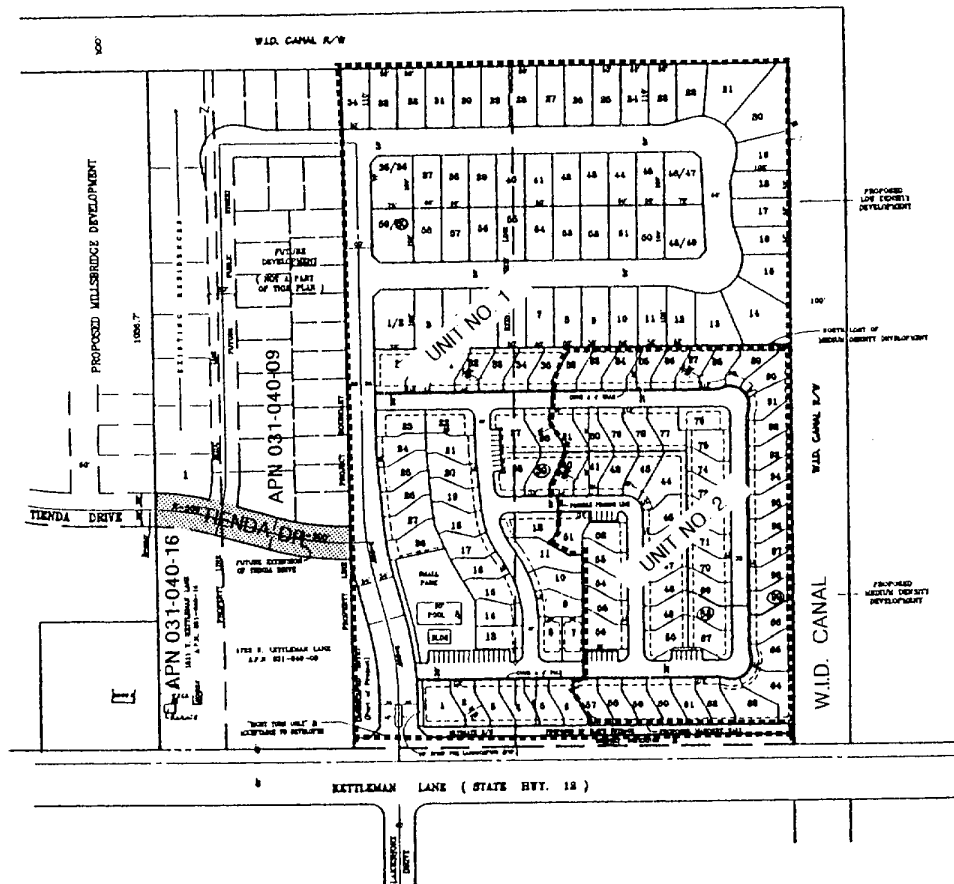
Attachments

cc: Randy Hays, City Attorney
Senior Civil Engineer Fujitani
Senior Civil Engineer Welch
Senior Traffic Engineer Fernandez
Tienda Partners
Baumbach & Piazza

CIAADDETC



TIENDA PLACE





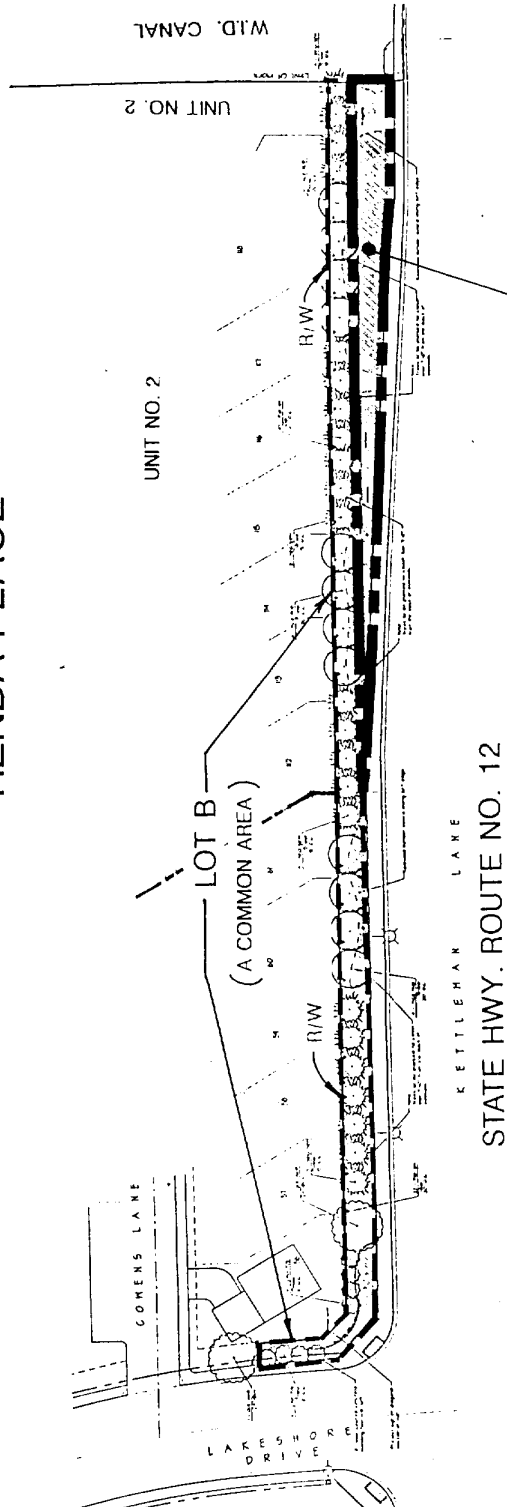
CITY OF LODI

PUBLIC WORKS DEPARTMENT

EXHIBIT B

TIENDA PLACE

UNIT NO. 1



AGREEMENT FOR MAINTENANCE OF LANDSCAPE AREA
WITHIN STATE HIGHWAY RIGHT OF WAY
STATE ROUTE 12 IN THE CITY OF LODI

THIS AGREEMENT is made and executed effective this 15th day of JANUARY 2002, by and between the State of California, acting through its Department of Transportation, hereinafter referred to as "STATE", and the City of Lodi, hereinafter referred to as "CITY".

WITNESSETH

A. RECITALS:

The parties desire to provide that CITY may install and maintain, directly or through an agent of CITY, certain landscaping and irrigation systems within STATE's highway right of way on State Route 12 in the City of Lodi as are shown on Exhibit "A".

B. AGREEMENT:

In consideration of the mutual covenants and promises herein contained, CITY agrees as follows:

1. CITY may install, or contract authorizing others to install, and thereafter will maintain (per Section 7) landscaping and irrigation systems in the area shown on Exhibit "A" as specified by the Caltrans Landscape Specialist.
2. CITY will submit plans, prepared, stamped and signed by a licensed landscape architect, for landscaping and irrigation systems to the State District Landscape Architect for review and approval and will obtain all necessary encroachment permits prior to the start of any work within STATE's right of way. Irrigation systems must meet STATE's standard specifications.
3. CITY shall ensure that landscaped areas designated on Exhibit "A" are provided with the scheduled routine maintenance necessary to maintain a neat and attractive appearance.
4. A separate encroachment permit is required for any CITY sponsored third party landscape maintenance work in the area designated under this Agreement such permit will be issued at no cost to the third party agent of CITY.
5. CITY will repair damage caused by landscape tree roots or water runoff to roadway pavement, subsurface structures, curb, gutters, drainage ditch, and sidewalks, all at no expense to STATE, within 30 days following written or actual notice of any unsatisfactory condition.

6. Prior to performing plant maintenance, CITY agrees to make field adjustments to planting or irrigation systems as identified during Caltrans final inspection of the newly constructed landscaping.
7. In addition to designing and installing these permitted landscaping and irrigation systems, the CITY agrees:
 - a) To furnish water and electrical power necessary to sustain healthy growth.
 - b) To replace unhealthy or dead plantings as they are observed.
 - c) To keep the entire permitted area free of litter, debris and deleterious material.
 - d) To prune shrubs and tree plantings to control extraneous growth.
 - e) To maintain and operate irrigation systems in a manner that prevents water from flooding or spraying onto the STATE highway.
 - f) To control weed growth before weeds exceed 6 inches in length. Any weed control performed by chemical weed sprays (pesticides) shall comply with all laws, rules, and regulations established by the California Department of Food and Agriculture.
 - g) To maintain motorist sight distance and clear vision of highway signs, signals, and pedestrians.
 - h) To maintain sidewalks in a safe and barrier-free condition.
8. If for any reason the area designated on Exhibit A is no longer maintained to the minimum standards specified herein after CITY receives 30 days prior written notice of those unsatisfactory conditions and the same are not corrected, this Agreement will be terminated and CITY will reimburse STATE, on presentation of a bill, for all costs incurred by STATE forces or a STATE contractor to maintain or remove that landscaping and to pave over or otherwise restore the area to a conditions satisfactory to STATE.
9. All work performed for or by CITY within the designated landscape area will be done at no cost to the STATE.
10. All work involving lane closures on STATE highways will be done in accordance with Chapter VIII of the Caltrans Maintenance Manual. The Caltrans Area Superintendent must be given not less than 24-hour advance notice by CITY prior to any party doing any work involving STATE highway facilities or rights of way.

C. LEGAL RELATIONS AND RESPONSIBILITIES:


1. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this agreement, or affect the legal liability of either party to the agreement by imposing any standard of care respecting the design, construction & maintenance of STATE highway right of way different from the standard of care imposed by law.

2. It is understood and agreed that neither STATE, nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work performed by CITY under this Agreement. It is also understood and agreed that, pursuant to Governmental Code Section 895.4, CITY shall defend, indemnify and save harmless the STATE, and all of its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injuries to or death of any person or damage to property resulting from anything done or omitted to be done by CITY under or in connection with any work performed by CITY under this Agreement.
3. CITY waives any and all rights to any type of express, implied and comparative indemnity against STATE, its officers and employees arising from any work performed by CITY under this Agreement.
4. Upon termination of this Agreement, ownership and title to all materials, equipment and appurtenances installed inside STATE's right of way will automatically be vested in STATE. Those materials & equipment installed outside of the STATE's right of way will automatically & immediately be vested in CITY, and no further agreement will be necessary to transfer ownership.

D. TERM OF AGREEMENT

THIS AGREEMENT shall become effective upon execution and shall remain in full force and effect until amended or terminated. This agreement may be amended or terminated at any time upon mutual consent of the parties thereto. Failure to comply with provisions set forth in Section B, Article 8 would be grounds for Notice of Termination by STATE.

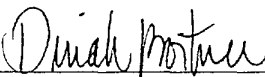
CITY OF LODI


H. DIXON FLYNN
City Manager

12/6/01

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION


JEFF MORALES
Director of Transportation

By 
DINAH BORTNER
Deputy District Director
Maintenance and Operation
District 10

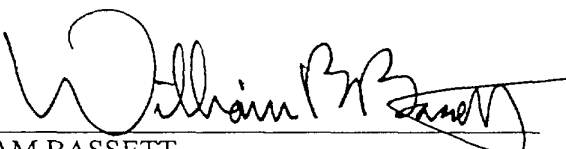
Attest:


SUSAN J. BLACKSTON

APPROVED AS TO FORM:


RANDALL A. HAYS
City Attorney

APPROVED AS TO FORM & PROCEDURE


WILLIAM BASSETT
Attorney
Department of Transportation

When Recorded, Please Return to:
Lodi City Clerk
P.O. Box 3006
Lodi, CA 95241-1910

RESOLUTION NO. 2002-167

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE
ADDENDUM TO THE IMPROVEMENT AGREEMENT FOR THE PUBLIC
IMPROVEMENTS OF TIENDA PLACE, UNIT NO. 1, TRACT NO. 3141;
AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE AN
AMENDMENT TO THE AGREEMENT FOR MAINTENANCE OF
LANDSCAPE AREA WITHIN STATE HIGHWAY 12 RIGHT-OF-WAY
WITH CALTRANS, AND A MAINTENANCE AGREEMENT WITH THE
DEVELOPER FOR LANDSCAPE IMPROVEMENTS IN THE KETTLEMAN
LANE RIGHT-OF-WAY; AND APPROPRIATING FUNDS

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WHEREAS, under the terms of the Improvement Agreement dated October 17, 2001, for Tienda Place, Unit No. 1, subdivision improvements included the installation of frontage improvements, including landscaping and irrigation along Kettleman Lane, and the extension of Tienda Drive to Lakeshore Drive; and

WHEREAS, the scope of the work for those improvements have changed since the Improvement Agreement was executed and an Addendum to the Improvement Agreement has been prepared to address the additional engineering plan check and inspection fees, improvement security, reimbursements and additional agreements necessitated by those changes; and

WHEREAS, staff recommends that the City Council take the following action with regard to the Tienda Place, Unit No. 1 development:

1. Approve the Addendum to the Improvement Agreement for the Public Improvements of Tienda Place, Tract No. 3141, and direct the City Manager and City Clerk to execute the Addendum to the Improvement Agreement on behalf of the City.
2. Authorize the City Manager to execute an amendment to the Agreement for Maintenance of Landscape Area within State Highway Right of Way, State Route 12 in the City of Lodi with Caltrans, and a Maintenance Agreement with the developer covering developer's responsibilities for landscape improvements in the Kettleman Lane right of way.
3. Appropriate funds for applicable reimbursements.

The City Council of the City of Lodi hereby finds as follows:

1. That the Addendum to the Improvement Agreement for the Public Improvement of Tienda Place, Tract No. 3141, is hereby approved and further authorizes the City Manager and City Clerk to execute said Addendum; and

2. That the City Manager is hereby authorized and directed to execute an amendment to the Agreement for Maintenance of Landscape Area within State Highway Right of Way, State Route 12 in the City of Lodi with Caltrans, and a Maintenance Agreement with the developer covering developer's responsibilities for landscape improvements in the Kettleman Lane right of way; and
3. That funds (\$6,000.00) be appropriated from the Impact Mitigation Fees - Streets for applicable reimbursements to the Developer as follows:

Kettleman Lane Street Improvements -	\$33,541.20
Tienda Drive Street Improvements	\$21,578.37

Dated: August 7, 2002

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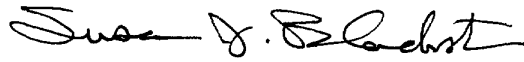
I hereby certify that Resolution No. 2002-167 was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 7, 2002 by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


SUSAN J. BLACKSTON
City Clerk

CITY COUNCIL

PHILLIP A. PENNINO, Mayor
SUSAN HITCHCOCK
Mayor Pro Tempore
EMILY HOWARD
KEITH LAND
ALAN S. NAKANISHI

CITY OF LODI

PUBLIC WORKS DEPARTMENT

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6706
FAX (209) 333-6710
EMAIL pwdept@lodi.gov
<http://www.lodi.gov>

H. DIXON FLYNN
City Manager
SUSAN J. BLACKSTON
City Clerk
RANDALL A. HAYS
City Attorney
RICHARD C. PRIMA, JR.
Public Works Director

August 1, 2002

Mr. Darrell Sasaki
Tienda Partners
1806 W. Kettleman Ln., Ste. H
Lodi, CA 95242

Mr. Steve Pechin
Baumbach & Piazza
323 West Elm St.
Lodi, CA 95240

SUBJECT: Adopt Resolution Approving the Addendum to the Improvement Agreement for the Public Improvements of Tienda Place, Unit No. 1, Tract No. 3141; Authorizing the City Manager to Execute an Amendment to the Agreement for Maintenance of Landscape Area Within State Highway 12 Right of Way with Caltrans, and a Maintenance Agreement with the Developer for Landscape Improvements in the Kettleman lane Right of Way; and Appropriating Funds for Applicable Reimbursements

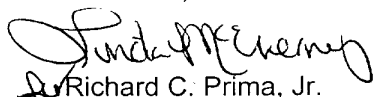
Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, August 7, 2002. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the consent calendar and is usually not discussed unless a Council Member requests discussion. The public is given an opportunity to address items on the consent calendar at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Susan Blackston, City Clerk, at 333-6702.

If you have any questions about the item itself, please call Sharon Welch, Senior Civil Engineer, at 333-6800, ext. 2659.


Richard C. Prima, Jr.
Public Works Director

RCP/lm

Enclosure

cc: City Clerk

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